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1 Brian FitzPatrick to Captain Thomas Dinetta dated
2 April 29th, 1999?
3 A. Yes, sir, it is.
4 Q. And does the "Re:" line say "range project"?
5 A. Yes, it does.
6 Q. Now, I'd like to direct your attention to item
7 No. 4 in the memo; do you see that?
8 A. Yes, sir.
9 Q. Does this appear to indicate that on April
10 26th, 1999, the rear of the range was found to have a
11 large amount of lead dust on the floor and on the
12 equipment?
13 A. Yes, it does.
14 Q. Now, independent of this memo, did you ever
15 recall hearing about there being problems with dust
16 accumulation in the rear of the range?
17 A. No, sir.
18 Q. All right, Colonel, you can put that document
19 down.
20 A. Thank you.
21 Q. Colonel, I'd like to put another document in
22 front of you which -- I am not sure if this was
23 previously marked in a deposition or not, so I am just
24 going to call this Chaffinch Deposition Exhibit No. 2.

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1 (Chaffinch Exhibit No. 2 which is a
2 memorandum to Lt. Ralph Davis from Sgt. Alfred W.
3 Parton, Jr. was marked for identification.)
4 BY MR. NEUBERGER:
5 Q. Now, Colonel, do you have this document in
6 front of you?
7 A. Yes, sir, I do.
8 Q. Does this appear to be an undated memorandum
9 from Sergeant Al Parton of the special operations
10 response team to Lieutenant Ralph Davis, the deputy
11 director of training?
12 A. Yes, sir, it does.
13 Q. And is this a two-page document?
14 A. Yes, sir, it is.
15 Q. Does the second page appear to be some kind of
16 an e-mail that was sent in the year 2000?
17 A. Yes, sir, it does.
18 Q. Do you know who Sergeant Al Parton is?
19 A. Yes, I do.
20 Q. Was he running the special operations response
21 team while you were colonel?
22 A. Yes, he was.
23 Q. Did he do a good job at that?
24 A. To the best of my knowledge.

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1 Q. I'd like to direct your attention to the eighth
2 line down on the first page, the sentence that begins
3 with, "As the NCOIC of the range"; do you see that?
4 A. I sure do.
5 Q. Does that say that, "As the NCOIC of the range,
6 I reported continuously regarding the lead
7 contamination, personal lead levels and the recurring
8 problems with the ventilation"; does it say that?
9 A. Yes, it does.
10 Q. Then skipping to the second to the last line
11 from the bottom, do you see that, where it says, "I
12 have a very vivid memory"?
13 A. Yes, sir.
14 Q. Does that say, quote, I have a very vivid
15 memory of my tenure at the range and the problems that
16 were encountered on a regular basis, period, close
17 quote; does it say that?
18 A. Yes, sir, it does.
19 Q. Does it appear that Sergeant Parton was
20 indicating in this memo that he encountered problems
21 while he was the NCOIC of the range on a regular
22 basis?
23 A. He says he reported continuously, you know,
24 regarding the lead contamination and personnel lead

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1 levels.
2 Q. And have you ever seen this memo before?
3 A. No, sir, I have not.
4 Q. I think you testified a little earlier that you
5 recalled some problems with the HVAC system and the
6 FTU historically; isn't that right?
7 A. Yes, sir.
8 Q. And you recalled some issues with the lead
9 levels and the personnel of the range?
10 A. I know that they were keeping close watch on
11 them, yes.
12 Q. And Sergeant Parton, in this memo, appears to
13 be touching on some of those same concerns that you
14 have voiced a little earlier; is that right?
15 A. That's correct.
16 Q. Now, let's turn to the second page of this
17 document.
18 A. (Witness complies.)
19 Q. Now, this appears to be an e-mail from Sergeant
20 Parton to, I guess it would be then Colonel Waggaman?
21 A. Yes, sir.
22 MR. ELLIS: Lieutenant colonel.
23 THE WITNESS: It is lieutenant colonel.
24 MR. ELLIS: I thought you said "then

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1 colonel."

2 BY MR. NEUBERGER:

3 Q. I am sorry, was he the colonel or lieutenant
4 colonel?

5 A. Lieutenant colonel.

6 Q. Even though it says superintendent at DSP?

7 A. Well, that's because everybody that's in the
8 superintendent's office gets the same e-mail. But he
9 is LTC Waggaman, as you can see. That stands for
10 lieutenant colonel.

11 Q. Well, in the first sentence of the first
12 paragraph of that e-mail, it says, "As you know, we
13 are constantly monitoring the lead problems here at
14 the range to include personnel lead levels"; does it
15 say that?

16 A. Yes.

17 Q. I think you indicated a little while ago that
18 that was one of the areas that you were aware of while
19 you were a colonel of the State Police, the monitoring
20 of the personnel lead levels; isn't that right?

21 A. That's correct.

22 Q. Now, going to the second paragraph, does that
23 say, "Master Corporal Eddie Cathell was first to have
24 his completed. Other members will be complete this

1 A. Yes, sir.

2 Q. Does that say that we are still experiencing
3 lead dust contamination behind the bullet trap with
4 the source being the ceiling where the center eye
5 beams were installed? And does it go on and say that
6 this (sic) a large contamination that has been cleaned
7 up twice since I have been here?

8 A. Yes, it does.

9 Q. And there appears to be some grammatical
10 problems with that sentence, but, otherwise, does that
11 seem to indicate there have been contamination
12 problems behind the bullet trap?

13 A. Yes, sir.

14 Q. And they have had to be cleaned up several
15 times?

16 A. I think they said twice since he had been
17 there.

18 Q. Now, do you ever recall hearing anything about
19 these lead contamination problems behind the bullet
20 trap prior to December of '03?

21 A. No, sir. I was never behind the bullet trap
22 until I went on one of those tours for the media.

23 Q. All right, Colonel. You can put that document
24 down.

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1 week. On today's date, I received notification that
2 Eddie's level has elevated from a 20 MCG/DL to a 30
3 MCG/DL, a rise of ten points since the last test of
4 May 1st, 2000?"

5 A. Yes, it does.

6 Q. Does that appear to be indicating that Trooper
7 C's lead levels are elevated from a 20 to a 30?

8 A. Yes, it sure does.

9 Q. Now, I'd like to direct your attention to the
10 fourth paragraph.

11 A. Okay.

12 Q. The last sentence of that paragraph. I'd like
13 to read that to you.

14 A. Sure.

15 Q. Does that say, "We have now reached a point
16 where an instructor has reached a critical level of
17 contamination and the problem needs to be resolved";
18 does it indicate that?

19 A. Yes, sir.

20 Q. Does it indicate that?

21 A. Yes.

22 Q. Now, still in that fourth paragraph, I'd like
23 to direct your attention to the second sentence. Do
24 you see where it says, "We are still experiencing"?

1 A. Thank you.

2 Q. Now, let's change gears a little bit again and
3 get off of some of the historical problems that we
4 have been talking about.

5 A. Okay.

6 Q. When did you first learn about the problems at
7 the FTU in the, say, beginning in December of '03?
8 What was the first that you heard about the problems
9 there?

10 MR. ELLIS: I am sorry. When is the first
11 he learned about problems there after December 1st?

12 MR. NEUBERGER: Of 2003.

13 MR. ELLIS: Okay.

14 THE WITNESS: Well, I am not exactly sure.
15 I would say shortly after, the lieutenant colonel
16 probably had given me an update every once in a while.

17 BY MR. NEUBERGER:

18 Q. Do you think he would have given you the update
19 sometime in December of 2003?

20 A. I am not sure. Probably not. But I don't
21 know. I can't tell you for sure. I know that we
22 closed it at March and I heard about it just prior to
23 it being closed.

24 Q. That was the first that you had heard about it?

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1 A. I knew that he was dealing with some problems
2 up there, but he was still with Captain Warren, and I
3 assume that, you know, they were -- they were taking
4 care of whatever needed to be taken care of.

5 Q. Did then Lieutenant Colonel MacLeish give you
6 any periodic updates on the progress of what was
7 happening at the FTU?

8 A. He may have mentioned it, but not -- you know,
9 he didn't go into deep detail or anything.

10 Q. For example, did he tell you that members of a
11 recruit class were having nosebleeds and having a
12 copper penny taste in their mouths?

13 A. That was all over the media after all that
14 information got out to whoever. It eventually got to
15 the auditor's office and also got to the media.

16 Q. How about before it got to the media, isn't
17 that something you would have heard about as the
18 colonel of the State Police?

19 A. I probably would have, but, you know, I don't
20 recall exact conversation by the lieutenant colonel to
21 me. I know that there was one time when there was a
22 conversation with him and Captain Warren and he asked
23 Captain Warren, Do we need to shut the place down?,
24 and Captain Warren said no.

1 Q. I got you.

2 How about the second time?

3 A. Okay. I see that one, too.

4 Q. Does that appear to be an e-mail that was sent
5 from Sergeant Christopher Foraker to Tom MacLeish and
6 Paul Eckridge and was copied to Greg Warren and Ralph
7 Davis on Friday, December 19th, 2003?

8 A. Sure does.

9 Q. And is the subject of that e-mail "Emergency
10 Range Issues"?

11 A. That's what it says.

12 Q. I'd like to direct your attention to the second
13 paragraph of that e-mail, the sixth line up in the
14 second paragraph.

15 A. Okay.

16 Q. At the very end of the line, it begins a new
17 sentence with the word "the"; do you see that?

18 A. Yes.

19 Q. I'd like to read that. Does that say, "The
20 mechanical operation of this very expensive equipment
21 should not be left to amateurs in the mechanical field
22 to tweak but for professionals who have the training
23 and experience to make proper scientific and
24 calculated adjustments and measurements when

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1 Q. Do you recall when that was?

2 A. I am going to say January.

3 Q. Off?

4 A. Of '04. I am going to guess January of '04.

5 Q. But you are guessing?

6 A. Yeah. But I am in close proximity. It wasn't
7 March. It either had to be -- I am pretty sure it was
8 January.

9 Q. Colonel, I'd like to put another document in
10 front of you, one which was previously marked as
11 MacLeish Deposition Exhibit 11; okay?

12 A. Yes, sir.

13 Q. Now, Colonel, I'd like to direct -- this is a
14 two-page document, is it not?

15 MR. ELLIS: I am sorry, MacLeish 11?

16 MR. NEUBERGER: Yes.

17 MR. ELLIS: I got it.

18 BY MR. NEUBERGER:

19 Q. It's a two-page document, I am sorry?

20 A. Yes, it is.

21 Q. I'd like to direct your attention on the first
22 page, do you see where it says, "Original message" a
23 little bit down on the first page?

24 A. Yes. Well, it's there twice.

1 necessary"; does it say that?

2 A. Yes.

3 Q. Does it go on to say, "My expertise, as well as
4 the entire FTU staff, relies on firearms, officer
5 safety, and force training. We do not possess the
6 training, skill, the knowledge or the time necessary
7 to properly maintain the system at it optimal
8 performance"; does it say that?

9 A. Yes, it does.

10 Q. Have you ever seen this e-mail before?

11 A. No, I have not.

12 Q. Did then Lieutenant Colonel MacLeish ever tell
13 you that he had received an e-mail about emergency
14 range issues?

15 A. I would imagine that he did. I don't
16 specifically recall, but I would imagine that he did
17 tell me he was dealing with it.

18 Q. Would that be because of the nature of the
19 problem, because it's been categorized as an
20 emergency? It's not just a day-to-day problem?

21 A. It would be because he tried to keep me
22 up-to-date on all the different things that, you know,
23 that came under his purview.

24 Q. And was then Lieutenant Colonel MacLeish good

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1 at keeping you up-to-date on the other aspects of his
2 job?

3 A. Yes, sir.

4 Q. Now, did this paragraph, at least the part of
5 the paragraph that I just read to you, did that appear
6 to be indicating that Sergeant Foraker appeared to be
7 -- did Sergeant Foraker appear to be indicating that
8 there was some equipment which he and this man were
9 not qualified to fix or tinker with?

10 MR. ELLIS: Object to the form of that
11 question.

12 THE WITNESS: That's what it indicates.

13 BY MR. NEUBERGER:

14 Q. And does he say that neither he nor his men
15 possess the training, the skills, or the knowledge
16 necessary to maintain that equipment?"

17 A. That's what you just said. That's what you
18 just read.

19 Q. Now, apart from this e-mail, in the Delaware
20 State Police, while you were colonel, the troopers
21 drive police cars; would that be fair to say?

22 A. Yes.

23 Q. And are they Crown Vics, usually?

24 A. Road cars are Crown Vics, yeah.

1 Q. Is it your position in this case that the staff
2 of the FTU are responsible for fixing the equipment
3 and the upkeep of the equipment in this \$3.3 million
4 facility?

5 A. It's not my position one way or the other.
6 It's, you know, it had been being done and then it
7 wasn't being done. It wasn't my position as to
8 whether -- I didn't open the range. I didn't have
9 anything to do with opening the range in 1998. I
10 didn't know what the procedures were and the protocol
11 was for the range. I never worked at the range. I
12 only went there to re-qualify and did that fine each
13 time and went about to my duties. So, it's not my
14 position one way or the other.

15 Q. Do you think that the men should have been
16 maintaining the range and keeping up all of the
17 equipment there?

18 A. I don't know if they should or they shouldn't.
19 I don't know the answer to that.

20 Q. You don't know either way?

21 A. I don't have the answer to that. I don't know.

22 Q. Now, do you know who someone named Mark
23 D'Allesandro is?

24 A. No, I don't.

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1 Q. If a trooper has a problem with his Crown
2 Victoria and it breaks down, is the trooper authorized
3 to tinker with the engine?

4 A. No, he is not.

5 Q. Is he authorized to mess around with the
6 carburetor?

7 A. No, he is not.

8 Q. Is he authorized to tweak the transmission?

9 A. No, he is not.

10 Q. Is he authorized to do his own little repairs
11 on the engine?

12 A. No, he is not.

13 Q. What does a trooper have to do when there is a
14 problem with his patrol car?

15 A. Get in touch with the mechanic at whatever
16 troop facility he works.

17 Q. And then the mechanic --

18 A. Takes care of it from there.

19 Q. -- takes care of it from there? Okay.

20 Do you have any idea how much a Delaware
21 State Police cruiser costs, the patrol cars?

22 A. Twenty-one, \$22,000, probably, just guessing.

23 Q. Do you know how much it cost to build the FTU?

24 A. \$3.3 million, I think it cost initially.

1 Q. Have you ever heard his name before?

2 A. No, I have not.

3 Q. I'd like to direct your attention to the third
4 paragraph down on the first page; do you see that? It
5 begins on the first page and goes over onto the second
6 page?

7 A. Yes, sir.

8 Q. The very last line?

9 A. Okay.

10 Q. Actually, the third to the last line.

11 A. Okay.

12 Q. The sentence that begins with, "He has also
13 noted"?

14 A. Yes, sir.

15 Q. I am going to read that to you; all right?

16 A. Okay.

17 Q. Does that say that, "He has also noted that
18 regardless of completing the transition to frangible
19 ammunition, lead contamination will always be present
20 and a health danger due to the lead-lined deceleration
21 chamber. Mr. D'Allesandro stated that the smooth
22 operation of the bullet trap maintenance would require
23 a full-time professional that would also need to be
24 equipped with the proper protective gear and trained

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1 in the handling of hazardous lead and other
2 materials."
3 Does it say that?
4 A. Yes, it does.
5 Q. Do you know if full-time professionals came
6 into the range on a regular basis wearing protective
7 gear and handled the cleanup and abatement and
8 hazardous lead and other toxic heavy metals?
9 A. Not to my knowledge.
10 Q. Could you read the very next paragraph quietly
11 to yourself, the one that begins with "Master Corporal
12 B. Kurt Price," and tell me when you are finished?
13 A. I am finished.
14 Q. Now, does that paragraph indicate that Master
15 Corporals Price and Warren were expressing concern
16 about the rise in their lead levels as a result of
17 their conducting maintenance on the bullet trap and on
18 the bullet recovery system?
19 A. Yes, it does.
20 Q. And then in the, I guess it's the third line
21 from the bottom of that paragraph, where it begins
22 with, "I concur"; do you see that?
23 A. Yes, I do.
24 Q. Does Sergeant Foraker appear to state that,

1 to safely operate the range?
2 A. No, I didn't hear any of that. I know that
3 they had people come from the troops and help them up
4 there, but I haven't heard what you are asking.
5 Q. If a concern about unsafe staffing levels was
6 raised, do you think that would be a serious concern
7 that the State Police would need to address?
8 A. Could you repeat that again, please?
9 Q. Sure. If concerns about unsafe staffing levels
10 at the FTU were raised by the personnel working at the
11 FTU, do you think that's a serious concern that the
12 State Police would need to address?
13 A. I think it needed to be looked into.
14 Q. Because safety is a big deal in the Delaware
15 State Police?
16 A. Sure.
17 Q. I'd like to put another document in front of
18 you, one which was previously marked as MacLeish
19 Deposition Exhibit No. 13.
20 Colonel, do you have this document in
21 front of you?
22 A. Yes, I do.
23 Q. Does this appear to be an e-mail from Sergeant
24 Foraker to Captain Warren dated January 9th, 2004?

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1 quote, I concur with my colleagues that this is an
2 unnecessary health risk and that the maintenance of
3 the bullet trap and recovery system should be left to
4 the trained professionals who can operate in this
5 environment safely; does it say that?
6 A. Yes, it does.
7 Q. Do you have any knowledge as to how other
8 firing ranges throughout the country handle lead
9 cleanup and cleanup and abatement of other toxic
10 materials at firing ranges?
11 A. Not really.
12 Q. Colonel, still on this MacLeish Deposition
13 Exhibit No. 11, had you ever seen the original e-mail
14 dated December 19th, 2003, here?
15 A. No, I have not.
16 Q. You can put that document down, Colonel.
17 A. Thank you.
18 Q. Do you recall, at any point, hearing that there
19 were unsafe levels of staffing at the FTU? This was
20 beginning in December of 2003 forward.
21 A. No, I do not.
22 Q. Do you ever recall hearing that, given the
23 industry standards of teacher versus instructor
24 ratios, that the FTU did not have enough instructors

1 A. Yes, it does.
2 Q. And does the subject line say, "Range health
3 issues and departmental liability"?
4 A. Yes, it does.
5 Q. Now, does the first sentence of this e-mail say
6 that we are experiencing significant air flow problems
7 at the range?
8 A. That's what it says.
9 Q. Does it go on and state that I have personally
10 witnessed the problem since I have returned to the FTU
11 on December 1st, 2003; does it say that?
12 A. Yes, it does.
13 Q. Does it then continue and say that Corporals
14 Warren and Price have expressed that this problem has
15 been in existence for many months and has only been
16 Band-Aided over time when complaints have been made?
17 A. That's what it says.
18 Q. Let's skip down two more lines to the end of
19 that line where it begins with "Corporal Warwick"?
20 A. Yes, sir.
21 Q. Does that say, "Corporal Warwick expressed
22 that, at one point, the smoke was so dense that he was
23 barely able to see a shooter on the firing line"; does
24 it say that?

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1 A. Yes, it does.

2 Q. Now, from parts of that paragraph that we just

3 read, do they appear to indicate that there had been

4 problems with air flow and with dense smoke at the

5 FTU?

6 A. That's what it says, per Corporal Warwick.

7 Q. Now, in your opinion, at the time you were the

8 colonel of the DSP, would it be a concern to you that,

9 at the FTU, the instructors couldn't see the students

10 on the firing line because of the dense smoke?

11 A. I'd say it's time to shut the place down.

12 Q. Now, let's skip down to the third paragraph of

13 this e-mail.

14 Do you see it has a No. 1 at the very

15 beginning of it?

16 A. Okay.

17 Q. Does that state that a reddish haze in the air

18 that is suspended throughout the range when the bullet

19 strikes the bullet trap?

20 A. That's what it says.

21 Q. And does it go on and say that the airborne --

22 and you can't read the next word -- are inhaled by the

23 instructors and the students?

24 A. Yes, sir.

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1 Q. Does it continue and say that when anyone blows

2 their nose, a large amount of a reddish debris is

3 discharged?

4 A. Yes, it does.

5 Q. Does it continue and say that students and

6 instructors also complain of a copper penny taste in

7 their mouth after shooting and describe a significant

8 eye mucus present when awaking the following morning

9 after a day on the range?

10 A. Yes, it does.

11 Q. Now, let's skip down to the last sentence of

12 the same paragraph; okay?

13 A. Yes, sir.

14 Q. Does that state that the range staff is under

15 the impression that without the rapid exhaust and

16 removal of the copper frangible particulates from our

17 breathing air, this problem constitutes a potentially

18 unsafe and unhealthy working environment detrimental

19 to our good health and inconsistent with departmental

20 goals and objectives?

21 A. Yes, it does say that.

22 Q. Now, did you ever hear about the issues raised

23 that we just ran through? Were they ever brought to

24 your attention?

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1 A. I heard about the copper penny taste in the

2 mouth. I didn't know anything about what we ran

3 through with Corporal Warwick saying he could barely

4 see the shooter on the firing line, I wasn't familiar

5 with that. I haven't seen this document ever until

6 now.

7 Q. Did then Lieutenant Colonel MacLeish ever bring

8 these issues to your attention and discuss them with

9 you?

10 A. I believe he had a conversation with Greg

11 Warren, and he told me, when Greg Warren was

12 explaining this to him, that he asked Greg Warren

13 straight up, Do we need to shut the facility down?,

14 and Greg Warren said no.

15 So, at that point, I would imagine if I

16 would have heard that, I would have thought, Well, it

17 must not be as bad as it sounds on this paper, but, of

18 course, I didn't read this paper until now, so I don't

19 have any knowledge of this.

20 Q. Were you a party to this conversation with Greg

21 Warren?

22 A. No.

23 Q. So, you are relying on, I guess, what MacLeish

24 told you about his conversation with Greg Warren?

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1 A. Yes. And I don't remember all the specifics

2 that he told me, but I do know that he asked Greg

3 Warren if he should shut it down.

4 Q. Colonel, you can put that document down.

5 A. Thank you, sir.

6 Q. Colonel, were you ever advised that Sergeant

7 Ashley had responded to some health concerns raised by

8 Master Corporals Price and Warren by telling them,

9 quote, You have to die from something, closed quote?

10 A. I don't think I was advised of it. I might

11 have read it in some -- I don't know if that was in

12 the auditor's report or not. I may have read it in

13 something, but I wasn't advised of it, no.

14 Q. Now, speaking as a former colonel of the --

15 A. No. I read it in the suit.

16 MR. ELLIS: You read it in the complaint

17 or some document associated with the litigation?

18 THE WITNESS: Yes.

19 BY MR. NEUBERGER:

20 Q. Now, speaking as the former colonel of the

21 Delaware State Police, in your opinion, is it a good

22 thing when a supervisor responds to health concerns

23 raised by a subordinate and tells them, "You have to

24 die from something"?

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1 A. He probably should not have said that.
 2 Q. For example, if a road trooper went to his
 3 lieutenant or his captain and his troop and said, My
 4 bulletproof vest isn't working, would, You have to die
 5 from something, be an appropriate response for his
 6 lieutenant or his captain to give him?

7 MR. ELLIS: Objection to the form.

8 THE WITNESS: No. I don't think he meant
 9 anything because you tell people, You better quit
 10 smoking, they are going to kill you; they say, I am
 11 going to die from something. You know, I mean -- I
 12 don't know that that's an appropriate answer, but
 13 that's what people say.

14 BY MR. NEUBERGER:

15 Q. But you are telling me that's not an
 16 appropriate answer?

17 A. No, it's not.

18 Q. Beginning in December of 2003, did you ever
 19 hear that Sergeant Foraker and then Master Corporals
 20 Price and Warren were concerned about the health and
 21 safety of the conditions at the FTU?

22 A. I am sure I did through the lieutenant colonel.

23 Q. The State Police is a paramilitary
 24 organization; isn't it?

1 A. Well, whenever the lieutenant colonel would
 2 bring me up-to-date on it, he would say, We are doing
 3 this, this, and this, or whatever. He wouldn't just
 4 say that they have a concern, so -- he would say that
 5 they have a concern about this, so we are doing X, Y,
 6 and Z with regards to taking care of whatever it was.

7 Q. What's X, Y, and Z?

8 A. When he would come to me and explain to me that
 9 there has been some things come up at the range -- we
 10 will just use that, since that's what we are talking
 11 about -- with regards to lead levels or whatever, he
 12 would say, Well, we are doing, and we are sending them
 13 to be tested, or we are, you know, that's what X, Y,
 14 and Z is.

15 Q. Got you. Okay.

16 Do you think the concerns about health and
 17 safety raised by troopers under your command should be
 18 taken seriously?

19 A. I sure do.

20 (Recess taken.)

21 BY MR. NEUBERGER:

22 Q. Now, Colonel, do you recall, let's focus on the
 23 first half of the year 2004.

24 A. Okay.

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1 A. Yes, sir.

2 Q. And there is a chain of command?

3 A. Yes, sir.

4 Q. And, at the time, you were at the top of the
 5 chain of command?

6 A. Yes, sir.

7 Q. You were the top dog on the food chain?

8 MR. ELLIS: Objection to the form.

9 THE WITNESS: It wasn't a food chain. I
 10 don't know if that's an appropriate comment at this
 11 time.

12 BY MR. NEUBERGER:

13 Q. There is like a pyramid and you were at the top
 14 of it; would that be fair to say?

15 A. I was a superintendent of State Police, yes.

16 Q. And concerns came to your attention as they
 17 were raised by people lower in the chain of command up
 18 through the chain of command?

19 A. Yes.

20 Q. And are you indicating that, somehow, through
 21 the chain of command, it was brought to your attention
 22 that Sergeant Foraker and Master Corporal Price and
 23 Master Corporal Warren were voicing their concerns
 24 about the conditions at the FTU?

1 Q. Do you recall whether the Firearms Training
 2 Unit was in the media on a regular basis?

3 A. During the first half of '04?

4 Q. Yes.

5 A. I don't know if you would say on a regular
 6 basis. They were in the media a few times.

7 Q. Do you recall a time when, I guess that would
 8 be the director of training for the Delaware State
 9 Police described the FTU to Tom Eldred of the State
 10 News as being, quote, the absolute epitome of a
 11 project from hell, close quote?

12 A. Yes, I do.

13 Q. Do you recall seeing that in the media?

14 A. Yes, I do.

15 Q. And I'd like to introduce another exhibit.

16 This will be Chaffinch Exhibit No. 3.

17 (Chaffinch Exhibit No. 3 bates stamped
 18 FTU2849 through FTU2940 was marked for
 19 identification.)

20 BY MR. NEUBERGER:

21 Q. Now, Colonel, do you have this document in
 22 front of you?

23 A. Yes, I do.

24 Q. Does this appear to be a multi-page document?

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1 A. Sure does.

2 Q. If you could just thumb through it and take a

3 look at this and tell me if it would be fair to say

4 that this is a large number of media articles from

5 various newspapers and news outlets about the FTU in

6 general?

7 MR. ELLIS: Rather than saying "a large

8 number," wouldn't it be better to count them? Never

9 mind.

10 THE WITNESS: Some of the pages don't have

11 anything at all about the FTU.

12 BY MR. NEUBERGER:

13 Q. Do some of those pages appear to be maybe the

14 top half of a part of the newspaper and then the story

15 may be a little bit down further on the page?

16 MR. ELLIS: Doesn't look like it.

17 THE WITNESS: Doesn't look like it to me.

18 BY MR. NEUBERGER:

19 Q. Just thumb through that and see if you find any

20 articles about the FTU in there?

21 A. That's the same one. I can't count them

22 because they are duplicate.

23 Q. I am not asking you to count them.

24 A. I know, but I am just seeing the same one twice

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1 I have already found. That would lead you to believe

2 there was more than there was.

3 Q. Okay.

4 A. Same one again.

5 Q. Colonel, have you finished thumbing through the

6 documents?

7 A. Yes.

8 Q. Instead of questioning you about each of these

9 documents, would it be fair to say that, in general,

10 when there is a story about the Delaware State Police

11 and the Firearms Training Unit in the local

12 newspapers, that those stories are brought to your

13 attention?

14 A. They don't have to be brought to my attention.

15 I read the paper every day. I did when I was active

16 as well.

17 Q. So, by some means, you would come across this

18 story and probably read it?

19 A. If it was in the State News or the Journal,

20 yes.

21 Q. You can put that document down.

22 A. Thank you, sir.

23 Q. When there was an article about the FTU in the

24 local newspapers, would you talk about the article

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1 with your executive staff?

2 A. I may just ask the lieutenant colonel if he saw

3 it. If not, I would say you probably ought to take a

4 look at it. I don't know that I specifically sat down

5 and tweaked it or anything, no.

6 Q. Did there come a time when the governor ordered

7 an investigation of the FTU by the state auditor?

8 A. That's my understanding.

9 Q. How did you learn about that?

10 A. Through the paper.

11 Q. Did you ever talk to Lieutenant Colonel

12 MacLeish about it?

13 A. I may have. I don't know -- I don't remember

14 or recall any exact conversations about it, but I may

15 have.

16 Q. Do you recall if you ever expressed your

17 personal feelings about the investigation to

18 Lieutenant Colonel MacLeish?

19 A. I don't see where I would have had any problem

20 with it.

21 Q. Did he ever express to you his personal

22 feelings on the investigation?

23 A. If he did, I don't recall.

24 Q. Now, did there come a time when you learned

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1 that Sergeant Foraker and Master Corporals Price and

2 Warren had spoken to the state auditor?

3 A. Yes.

4 Q. How did you find out about that?

5 A. I think I found out about that in the paper as

6 well.

7 Q. Did you talk to Lieutenant Colonel MacLeish

8 about that?

9 A. I can't recall an exact conversation, but I

10 probably did.

11 Q. Colonel, I'd like to put another document in

12 front of you. This one was previously marked as

13 MacLeish Deposition Exhibit 17.

14 A. Thank you.

15 Q. You are welcome.

16 Now, Colonel, do you have that document in

17 front of you?

18 A. Yes, I do.

19 Q. Could you just thumb through these couple pages

20 and tell me if this appears to be an article from The

21 State News and then an article from the News Journal?

22 A. That's what it appears to be.

23 Q. Do you think you have ever seen these articles

24 before?

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1 A. I am sure that I have.
 2 Q. And the first page of this exhibit appears to
 3 be a front page story from the Delaware State News;
 4 isn't that right?
 5 A. Sure does.
 6 Q. And are you familiar with this article at all
 7 without reading it?
 8 A. I can't remember exactly what it says, no. I
 9 mean, I read them all, but I couldn't tell you what it
 10 says.
 11 Q. Okay.
 12 A. I see what the headlines say.
 13 Q. And let me direct your attention to the second
 14 paragraph of this article, the one that begins, "The
 15 troopers made their comments"
 16 A. Yes, sir.
 17 Q. Do you see that?
 18 A. Yes, sir.
 19 Q. Does it say, "The troopers made their comments
 20 Wednesday and prepared statements to investigators
 21 from the state auditor's office which is probing the
 22 range situation at the behest of Governor Ruthann
 23 Minner"?
 24 A. Yes, sir.

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1 Q. I think you indicated that you learned that my
 2 clients had spoken to the auditor by way of newspaper
 3 stories?
 4 A. Might have been by reading this article right
 5 here.
 6 Q. It possibly could have been, do you think --
 7 A. Could have been.
 8 Q. -- without actually reading it? I am not
 9 asking you to read it.
 10 A. Could have been.
 11 Q. Independent of the article, you think you
 12 learned about it from newspaper stories?
 13 A. I believe that I did.
 14 Q. Colonel, you can put the document down, please.
 15 Thank you.
 16 A. Absolutely.
 17 Q. Do you recall if you talked to anyone on your
 18 executive staff about the fact that Sergeant Foraker
 19 and Master Corporals Price and Warren had spoken to
 20 the auditor's office?
 21 A. I don't recall an exact conversation, but I am
 22 sure I had a conversation with the lieutenant colonel
 23 at least.
 24 Q. Were you happy with the media reports about

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1 their speaking to the auditors?
 2 MR. ELLIS: Object to the form of that
 3 question.
 4 THE WITNESS: Was I happy?
 5 BY MR. NEUBERGER:
 6 Q. Yes.
 7 A. I wouldn't say I was happy. I wouldn't say I
 8 was sad.
 9 Q. Were you unhappy?
 10 A. With regards to them speaking to the auditors?
 11 That was part of the investigation. They needed to
 12 speak to the auditors.
 13 Q. Are you --
 14 A. Auditors, I would assume the auditors go and
 15 talk to them if they are conducting an investigation,
 16 so I didn't see a problem with it.
 17 Q. Were you happy that the media found out about
 18 it and reported on it?
 19 A. I wasn't excited about it, I can tell you.
 20 Q. Were you unhappy about that?
 21 A. Yeah. I probably was a little unhappy.
 22 Q. Let's see. Were you displeased by it?
 23 A. Yes.
 24 Q. Were you angry?

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1 A. No.
 2 Q. How about irritated?
 3 A. No.
 4 Q. How about just disgusted in general?
 5 A. No.
 6 Q. Now, did you ever talk to Colonel MacLeish
 7 about how you wanted to discipline Sergeant Foraker as
 8 well as Master Corporals Price and Warren because they
 9 had spoken to the auditor?
 10 MR. ELLIS: Object to the form of that
 11 question.
 12 THE WITNESS: To the auditor, no. I don't
 13 believe so.
 14 BY MR. NEUBERGER:
 15 Q. Did you ever talk to Lieutenant Colonel
 16 MacLeish about wanting to discipline Sergeant Foraker
 17 and Master Corporals Price and Warren in general?
 18 A. Can you help me a little bit more? I don't
 19 remember having a conversation with him, but if you --
 20 if there is something you are not telling me that
 21 maybe I should know right now --
 22 Q. I think the record will reflect that Colonel
 23 MacLeish testified that he and you had talked about
 24 wanting to discipline the men because the media had

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1 reported on their speaking to the auditor.
 2 MR. ELLIS: I don't believe that's what
 3 the record is going to show. You can make whatever
 4 representation you want, but the witness should
 5 understand that, you know, that's your recollection of
 6 something that happened a while ago.
 7 THE WITNESS: I don't have a recollection,
 8 then.
 9 BY MR. NEUBERGER:
 10 Q. So, you just don't recall one way or the other?
 11 A. Restate the question, please.
 12 Q. Did you and Lieutenant Colonel MacLeish talk
 13 about wanting to discipline Sergeant Foraker and
 14 Master Corporals Price and Warren because they had
 15 spoken to the auditor or because the media had
 16 reported on their speaking to the auditor?
 17 A. I know that we did not discuss about
 18 disciplining with regards to those officers with
 19 regards to talking with the auditor's office.
 20 I am not sure -- I can't recall a
 21 conversation with regards to the media, but according
 22 to State Police policy, in order to speak with the
 23 media, you need to go through the public information
 24 office. And since I already testified to the fact

1 Q. Do you know if anyone else was interviewed by
 2 the auditor's office from your executive staff?
 3 A. I am sure they were.
 4 Q. Do you know if then Lieutenant Colonel MacLeish
 5 was interviewed by the auditor?
 6 A. Sure he was.
 7 Q. Did he ever talk to you about that?
 8 A. I am not sure if he did or not. He may have.
 9 I don't recall, you know, if -- what the conversation
 10 was if he did, but he probably did.
 11 Q. Would he have had to get your authorization to
 12 speak to the auditor because you were the colonel?
 13 A. It was a -- It was an open investigation by the
 14 auditor's office, and we, as an agency of the State
 15 Police, were going to cooperate with the auditor's
 16 office for them to complete their investigation. So
 17 anybody that was wanting to be -- that the auditor's
 18 office wanted to interview would be interviewed. It's
 19 that simple. So I don't know who all they interviewed
 20 off the top of my head, but we made sure that they
 21 all, you know, that they would be interviewed if the
 22 auditors wanted to interview them.
 23 Q. So, I think you are indicating that Colonel
 24 MacLeish and -- then Lieutenant Colonel MacLeish did

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1 that I didn't know about this until I read it in the
 2 paper, I would imagine that could have upset me
 3 somewhat, yes.
 4 Q. But do you have a specific recollection today
 5 of whether or not you and Lieutenant Colonel MacLeish
 6 talked about that?
 7 A. I sure don't.
 8 Q. Now, did you ever speak to the state auditor's
 9 office as part of their investigation into the FTU?
 10 A. I am sure I did.
 11 Q. Were you interviewed?
 12 A. I think I was.
 13 Q. Were you interviewed in person or by telephone?
 14 A. I think I was interviewed -- I was interviewed
 15 by the auditor's office on numerous occasions about a
 16 lot of different things, not just the range. So, it's
 17 -- It's not all, you know, real clear in my mind as to
 18 -- I am pretty sure I was interviewed in person, not
 19 on the telephone. My only question would be whether
 20 or not I was interviewed by myself or whether the
 21 lieutenant colonel was there at the same time. I
 22 don't know.
 23 I would say -- I would guess, and I
 24 shouldn't guess, so I won't say that.

1 not need to seek your authorization to speak to the
 2 auditor's office?
 3 A. He sure didn't.
 4 Q. Did you give the auditor's office any
 5 documents?
 6 A. Personally, I don't believe I did, no.
 7 Q. Do you know if anyone --
 8 A. I am sure --
 9 Q. -- other than my clients gave the auditor's
 10 office documents?
 11 A. I am sure that we did. I mean, I can't tell
 12 you exactly what we gave them, but I am sure that if
 13 -- they probably requested documents from our H.R.,
 14 human resources section, and if they requested them, I
 15 am sure they got them.
 16 They may have requested documents from the
 17 lieutenant colonel. I didn't give them any documents
 18 personally, but I am sure they got documents. I don't
 19 remember giving them any documents. I am pretty sure
 20 I didn't.
 21 Q. Who do you think would know if the State Police
 22 gave documents to the auditors? I think you mentioned
 23 Lieutenant Colonel MacLeish?
 24 A. Yes.

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1 Q. And you mentioned H.R., so that would be
 2 Captain John Yeomans?
 3 A. Yes, it would.
 4 Q. Can you think of anyone else who I might want
 5 to talk to if I could -- who might be able to answer
 6 that question?
 7 A. The lieutenant colonel.
 8 Q. So, those are the only two names that you can
 9 come up with?
 10 A. And Captain Yeomans.
 11 Q. Did you ever see any of the documents that may
 12 have been given to the auditor by the DSP?
 13 A. Not that I can recall. I don't believe so.
 14 Q. Now, let's change gears again.
 15 Now, isn't it true that you have never
 16 liked Kurt Price?
 17 A. No, it certainly is not.
 18 Q. Isn't it true you have never liked Wayne
 19 Warren?
 20 A. I played ball with Wayne Warren. Why would I
 21 not like him?
 22 Q. You played ball with him?
 23 A. That's right. I played softball with Wayne
 24 Warren.

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1 Q. When?
 2 A. Mid '80s. Maybe late '80s. Maybe late '80s.
 3 Q. Isn't it true that you bear ill will towards
 4 Wayne Warren and Kurt Price?
 5 A. No, I do not.
 6 Q. So you deny that?
 7 A. Yes.
 8 Q. Isn't it true that --
 9 A. I am not happy that they filed a civil suit,
 10 but, I mean, I would imagine if somebody came in and
 11 said, You just got sued, you probably wouldn't be
 12 happy with whoever sued you. I don't bear no ill will
 13 with either one of them.
 14 Q. Isn't it true that you were angry at both of
 15 them?
 16 MR. ELLIS: Time frame?
 17 MR. NEUBERGER: December of 2003.
 18 THE WITNESS: I don't -- no, I wasn't
 19 angry with them. I was upset with them.
 20 BY MR. NEUBERGER:
 21 Q. Why were you upset with them?
 22 A. Well, both of them sent me messages that they
 23 weren't going to sue me, but then they did.
 24 Q. And what do you mean, they sent you messages?

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1 A. They made sure that they told the right person
 2 that would come and tell me that, Aaron, we are not
 3 going to sue Aaron, but then they sued me anyway and
 4 they sued me individually, so that was upsetting. Why
 5 would you go about making sure that you get the
 6 message to me and then go ahead and do it anyway?
 7 Q. Who is the person who relayed the message?
 8 A. What difference does it matter?
 9 Q. You are under oath, Colonel.
 10 A. I am?
 11 Q. You are.
 12 A. Well, in one case, it's Bruce VonGoeerres, and
 13 I can't remember the other case. It might be Bruce
 14 VonGoeerres in the both cases.
 15 Q. Is he a lieutenant?
 16 A. He is.
 17 Q. Now, isn't it true that you bear animosity
 18 between Kurt and Wayne because they spoke out about
 19 the issues of the firing range?
 20 A. No, it's not.
 21 Q. Isn't it true that you don't like Kurt, Wayne,
 22 or Chris Foraker because they spoke out about health
 23 and safety issues specifically at the firing range?
 24 A. No, it's not true.

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1 Q. Isn't it true that you don't like that they
 2 kept speaking out continuously about problems at the
 3 firing range?
 4 A. No, it's not true.
 5 Q. Isn't it true that you didn't like that they
 6 had spoken out and that bad publicity for the Delaware
 7 State Police resulted in the Delaware media?
 8 A. Could you repeat that one?
 9 (The reporter read back as requested.)
 10 MR. ELLIS: Object to the form of the
 11 question.
 12 THE WITNESS: I believe that it was a
 13 disruption to agency, so I wouldn't be real happy
 14 about the fact that there was a disruption to the
 15 agency, no.
 16 BY MR. NEUBERGER:
 17 Q. What was a disruption to the agency?
 18 A. The fact that they spoke out and contained, you
 19 know, became disruptive to the agency because it's in
 20 the media.
 21 Q. Would you agree that the disruption to the
 22 agency is really caused by the problems at the FTU and
 23 not by their speech about those problems?
 24 A. Part of it is, yes.

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1 Q. Now, isn't it true that you were unhappy that
2 their speech to the auditor, as well as their speech
3 about the conditions at the FTU, caused the State
4 Police to get back on the front pages of the Delaware
5 State News and the News Journal?

6 A. Your questions are very long. I am having a
7 little trouble sticking with them.

8 Q. I can rephrase it for you.

9 A. Thank you.

10 Q. Isn't it true that you are unhappy that their
11 speech to the auditor got the State Police back on the
12 front page of the News Journal and the State News?

13 A. There is not a problem with being on the front
14 page of the State News and the News Journal as long as
15 it's positive for the agency. But when you are
16 running an agency, you like for it to be positive as
17 opposed to negative. So, I wasn't real happy about
18 that, yeah.

19 Q. Is that because most of the stories were
20 negative about the agency?

21 A. Yes, portions of them were.

22 Q. And that's something that you weren't happy
23 about?

24 A. Right.

1 A. Probably was.

2 Q. Is that the type of story that you think would
3 reflect positively on the agency?

4 A. Sure. That's a positive article. There has
5 been a lot of positive articles through the year.

6 Q. Right. And the stories that were in the local
7 newspapers from December of 2003, forward, about the
8 Delaware State Police and the FTU, those have been
9 primarily negative articles?

10 A. I would say that's a fair statement.

11 Q. Now, has MacLeish ever talked to you about his
12 personal feelings toward Kurt Price and Wayne Warren
13 and Chris Foraker?

14 A. Not that I can remember.

15 Q. Has he ever told you that he bears them ill
16 will?

17 A. You know, you continue to say "bears ill will."
18 I have never heard that in my entire life until today,
19 so I wouldn't use "bears ill will." That's something
20 I don't say. I don't know that I remember anybody
21 else saying it in front of me.

22 Q. Then I will try, in the future, in these
23 questions, to maybe bring the language a little closer
24 to something you might use.

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1 Q. Now, isn't it true that you were unhappy that
2 their speech about the conditions at the FTU caused
3 the DSP to be back on the front pages of the two local
4 papers?

5 A. Yeah. I wasn't happy.

6 Q. Now, isn't it true that you wanted the State
7 Police to get off of the front pages of the local
8 newspapers?

9 MR. ELLIS: Object to the form of that
10 question.

11 THE WITNESS: Only from a negative
12 standpoint.

13 BY MR. NEUBERGER:

14 Q. So, you are telling me that you didn't want
15 negative stories about the Delaware State Police to be
16 on the front pages of the local papers?

17 A. That's correct. I mean, you know, it only
18 makes sense that if you are in charge of an agency,
19 you would like things to be positive.

20 Q. For example, I think back in the spring of '05,
21 there was a real nice community interest story about
22 Captain Downes, about how he is involved in the
23 community with some kind of -- I think it was a
24 community policing story?

1 Has he ever told you that he is pissed off
2 at them?

3 MR. ELLIS: Object to the form of that
4 question.

5 THE WITNESS: Not that I can recall.

6 BY MR. NEUBERGER:

7 Q. How about that he is angry at them?

8 A. Not that I can recall.

9 Q. Did he ever tell you that he really wished that
10 they would just shut up?

11 A. Not that I can recall.

12 Q. Now, have you ever told anyone that Chris
13 Foraker is like a bad penny that just won't go away?

14 A. No, I have not.

15 Q. Have you ever said that about Kurt Price or
16 Wayne Warren?

17 A. I sure haven't.

18 Q. Have you ever told anyone that Chris Foraker is
19 a real thorn in your side?

20 A. No, I have not.

21 Q. Have you ever said something similar to that
22 effect about Kurt Price or Wayne Warren?

23 A. No, I have not.

24 Q. Have you ever told anyone -- I think I asked

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1 you this earlier -- have you ever told anyone that
 2 Chris Foraker is a real pain in the ass?
 3 A. No, I have not.
 4 Q. Have you ever told anyone that you think Kurt
 5 Price or Wayne Warren are a real pain in the ass?
 6 A. No, I have not.
 7 Q. Now, in reference to either of those three
 8 officers, have you ever said that you were going to
 9 get that SOB?
 10 A. No, I have not.
 11 Q. Now, I believe you just told me that you have
 12 never told anyone those things; correct?
 13 A. That's correct.
 14 Q. In your personal opinion, do you think that
 15 Kurt Price or Wayne Warren or Chris Foraker are a real
 16 pain in the ass?
 17 A. No, I don't.
 18 Q. Do you think that they are just like a bad
 19 penny that just won't go away?
 20 A. No, I do not.
 21 Q. Have you told people in the past that either
 22 Kurt Price, Wayne Warren, or Chris Foraker are a,
 23 quote, fucking asshole, close quote?
 24 A. No, I have not.

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1 Q. Have you ever said that you think those three
 2 officers are, quote, a dick head, close quote?
 3 A. No, I have not.
 4 Q. Have you ever said that you hate those
 5 officers?
 6 A. No, I have not.
 7 Q. Have you ever said that, in reference to those
 8 three officers, that I am done with this mother
 9 fucker?
 10 A. No, I have not.
 11 Q. So, you have never said anything like that to
 12 anyone, period; is that your testimony?
 13 A. That's right.
 14 Q. So, if someone said that you had said something
 15 to that effect, would they be lying?
 16 A. That's correct.
 17 Q. Now, Colonel, do you know what the National
 18 Institute of Occupational Safety & Health is?
 19 A. Not for sure.
 20 Q. How about the acronym NIOSH, does that ring any
 21 bell for you?
 22 A. I was going to ask you if that was the same
 23 one.
 24 Q. Have you ever heard of that group?

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1 A. Yes. I have heard of it, yes.
 2 Q. Are you aware that they are a subset or sub
 3 department of the Center for Disease Control?
 4 A. Not really. I didn't know that.
 5 Q. Are you aware that in April of 2004, they came
 6 to the State Police and to facilities management and
 7 offered to analyze the FTU free of charge and
 8 determine what all of its problems were?
 9 A. I don't remember knowing anything about that.
 10 Q. Do you recall that in April of 2004, or
 11 thereabout, that they came to the DSP and facilities
 12 management and offered to provide free medical
 13 analysis and consultation and treatment for all of the
 14 officers serving at the FTU?
 15 A. That wasn't shared with me.
 16 Q. If a national agency came in to make that kind
 17 of an offer to the DSP, who do you think they would
 18 contact? Who would be the contact person?
 19 A. I have no idea. They didn't contact the
 20 colonel.
 21 Q. So if someone wasn't going to contact the
 22 colonel, do you know who they would -- is there like a
 23 set person who --
 24 A. I would guess maybe they would contact the

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1 Cabinet Secretary. I don't know. I am only guessing.
 2 I don't know. I shouldn't guess.
 3 Q. You shouldn't guess.
 4 So, is it your testimony that you never
 5 heard anything about that during that time period?
 6 A. That's my testimony.
 7 Q. Did anyone from facilities management ever talk
 8 to you about that during that time period?
 9 A. No, sir.
 10 Q. Did you later hear that they had came back -- I
 11 guess you retired -- was it April or May of 2005?
 12 A. May the 5th.
 13 Q. Did you ever hear that, in early 2005, Master
 14 Corporal Wayne Warren requested a health hazard
 15 evaluation from NIOSH of the facility of the FTU?
 16 A. I was on administrative leave.
 17 Q. Did you ever hear about that?
 18 A. No, I did not.
 19 Q. In light of everything that you have learned
 20 since December of 2003, do you think that the FTU is a
 21 safe place to work?
 22 MR. ELLIS: Object to the form of that
 23 question. Do you have a time frame on that?
 24 MR. NEUBERGER: I gave him a time frame.

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1 MR. ELLIS: What?
2 MR. NEUBERGER: I gave him a time frame.
3 MR. ELLIS: You said based on the things
4 he's learned since December of 2003. You didn't say
5 when you were asking the question as -- you didn't
6 specify a time frame as to when it was safe.
7 MR. NEUBERGER: I will rephrase the
8 question.
9 BY MR. NEUBERGER:
10 Q. The time frame I am going to give you is from
11 December of 2003 forward.
12 Do you recall that, based on everything
13 you have learned during that time frame and since this
14 time frame began, that the FTU was a safe place to
15 work?
16 A. Well, when you say "FTU," the Firearms Training
17 Unit is -- you must be talking specifically about the
18 building.
19 Q. I am.
20 A. If you are talking about the building, then the
21 answer is no, it's not a safe place to work.
22 Q. The building is on -- It's on Clark Road or
23 something like that?
24 A. Yes.

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1 Q. It's north of Smyrna?
2 A. That's correct. Clark Farm Road, I think it
3 is.
4 Q. Thank you.
5 Are you aware that NIOSH has evaluated
6 firing ranges for safety issues in the past for other
7 police departments throughout the country?
8 A. No, I am not.
9 MR. ELLIS: Object to the form of that
10 question.
11 BY MR. NEUBERGER:
12 Q. Colonel, I'd like to put another document in
13 front of you. I believe this was MacLeish Deposition
14 Exhibit No. 18.
15 Ed, do you have that?
16 MR. ELLIS: If it's a MacLeish exhibit, I
17 have it.
18 BY MR. NEUBERGER:
19 Q. Now, Colonel, does this appear to be an e-mail
20 from -- I guess it would be Master Corporal Warwick?
21 A. I am not sure.
22 Q. From Corporal Warwick to Captain Greg Warren?
23 A. It does.
24 Q. And is the date April 21st, 2004?

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1 A. Yes, it is.
2 Q. And it's subject is NIOSH?
3 A. Yes, it is.
4 Q. Now, I'd like to direct your attention to the
5 third paragraph of this e-mail, and I am going to read
6 that to you; okay?
7 A. Sure.
8 Q. Does that say that, "On Tuesday, April 20th,
9 2004, I received a call from Dr. Randy Tubbs who told
10 me that Mr. Doyle Tiller had just called him and said
11 that a, quote, political block, close quote, is now
12 preventing him from allowing NIOSH to come in and
13 conduct testing on the air handling system. He said
14 Mr. Tiller told him that the State Police could give
15 NIOSH permission to come in and conduct testing,
16 however, he could not due to politics."
17 Now, did you ever hear anything, while you
18 were serving there as the colonel of the State Police,
19 about politics were preventing NIOSH from coming in to
20 fix the -- or to evaluate the FTU?
21 A. No, I did not.
22 Q. Do politics play a role in decisions that are
23 made in the Delaware State Police?
24 A. I wouldn't say on the day-to-day decisions. On

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1 the big decisions. The cabinet secretary the State
2 Police falls under is certainly a political appointee,
3 so you can't throw political or politics out, but, you
4 know, politics don't dictate whether or not you shoot
5 or don't shoot or all different kinds of things
6 involved in law enforcement.
7 Q. You mentioned politics are involved in the big
8 decisions.
9 What would qualify as a big decision?
10 A. Who the colonel is going to be.
11 Q. Things of that magnitude?
12 A. Yes.
13 Q. So, the position of colonel, the position of
14 lieutenant colonel, maybe?
15 A. Yes.
16 Q. But you are saying the day-to-day operations,
17 politics don't play a role?
18 A. Not -- not to the degree that they do what we
19 have already discussed.
20 Q. So you are saying that they do play somewhat of
21 a role?
22 A. Politics plays a role in everything. I have
23 had this conversation with many people. Politics
24 plays a role in day-to-day activities of your family.

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1 I mean, it has nothing to do with the State Police.
 2 So, to a degree, politics is involved in everything.
 3 Q. So, are you saying that politics do play a role
 4 in the day-to-day operations of the Delaware State
 5 Police?
 6 A. Yes.
 7 Q. Do politics play a role in the day-to-day
 8 operations of the Delaware State Police when it comes
 9 to the health and safety of the troopers under your
 10 command?
 11 A. No.
 12 Q. Did personal loyalty to you, as colonel, play a
 13 role in the decisions you made while you were colonel
 14 of the State Police?
 15 MR. ELLIS: Object to the form of that
 16 question.
 17 THE WITNESS: You will have to explain
 18 what you mean by "personal loyalty." Are you
 19 signalling out anyone or -- I mean, I don't know what
 20 you are telling me or asking me.
 21 BY MR. NEUBERGER:
 22 Q. I will rephrase it.
 23 A. Thank you.
 24 Q. When you had to make decisions while you were

1 Q. Right. That would be --
 2 A. Depending on what you are filling -- if you are
 3 filling a position, depending on the -- the
 4 qualifications of the different ones that are -- that
 5 you are looking at and the experience and -- there is
 6 all kinds of different things that come into play.
 7 But if everything -- everything else being equal,
 8 sure, personal loyalty may -- may kind of tip the
 9 scale, if you will.
 10 Q. Got you. Okay.
 11 Now, did there come a time when you sent
 12 Chris Foraker, Wayne Warren, and Kurt Price for
 13 fitness for duty exams?
 14 A. Not me.
 15 Q. Are you saying you did not make that decision?
 16 A. That's right. The lieutenant colonel made
 17 those decisions.
 18 Q. Would that be --
 19 A. Tom MacLeish. Yeah. He is the colonel now.
 20 Q. Did he talk to you about that decision?
 21 A. He just told me that they are going to be sent.
 22 But now we need probably to know what the time frame
 23 is because there is like five months when I wasn't
 24 even working. From October 27th of '04, until March

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1 colonel of the Delaware State Police, is one of the
 2 factors that you considered whether the person you are
 3 making the decision about had been personally loyal to
 4 you as an individual?
 5 A. Well, you see, when you are a superintendent of
 6 the State Police, you make decisions about all kinds
 7 of things.
 8 Q. Okay.
 9 A. Everything is not personnel issues. There is
 10 all kinds of things that you make decisions about
 11 daily.
 12 If you are talking about putting someone
 13 in a high position or something like that, any person
 14 certainly would properly lean towards somebody who has
 15 been loyal to them as opposed to somebody who has been
 16 disloyal. That's just common sense.
 17 Q. So, is that a factor that you would consider
 18 when making personnel decisions, if we can narrow that
 19 focus?
 20 MR. ELLIS: Object to the form of the
 21 question.
 22 THE WITNESS: That would be one part of
 23 the decision.
 24 BY MR. NEUBERGER:

1 25th of '05, I wasn't working, so I wasn't kept
 2 up-to-date.
 3 Q. We will focus on the time period from April of
 4 2004 through September of 2004.
 5 A. Okay. Yes, sir.
 6 Q. Are you aware that, during that time frame, my
 7 clients were sent for fitness for duty exams?
 8 A. I am aware that they were sent, but as far as
 9 the time frame, I am not real, you know, I am not real
 10 -- I have no idea exactly when it was.
 11 Q. But at some point during -- you are aware that
 12 they were sent?
 13 A. I am aware that they were sent. I couldn't
 14 even tell you if it was during that time frame that
 15 you just enumerated.
 16 Q. Do you know why they were sent for fitness for
 17 duty exams?
 18 A. Not exactly. I don't know all the, you know,
 19 the details.
 20 Q. I think you indicated --
 21 A. I know that decision was made.
 22 Q. And you indicated that then Lieutenant Colonel
 23 MacLeish made that decision?
 24 A. That's right. See, the lieutenant colonel's

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1 position, the range -- the training, personnel,
2 discipline all comes under the deputy superintendent,
3 so --
4 Q. Did he have to run that decision by you?
5 A. No.
6 Q. Did he run that decision by you?
7 A. He just let me know about it.
8 Q. Did you have the authority to say, No, don't do
9 that?
10 A. Sure.
11 Q. Did you tell him, No, don't do that?
12 A. No, I did not. And I didn't know all the
13 particulars that he knew. I wasn't -- I wouldn't do
14 that without knowing what's going on.
15 Q. Okay.
16 A. I have no reason to believe that he wasn't
17 making the right decision. If I had had a reason to
18 believe he wasn't making the right decision, maybe I
19 would have looked into it farther, but I have no
20 reason to believe that. He was working with human
21 resources and whoever else was involved in it.
22 Q. And are you indicating that you don't know why
23 he made that decision?
24 A. Right. I don't know all the particulars.

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1 Q. Do you know if Wayne Warren and Kurt Price
2 passed their fitness for duty exams?
3 A. No, I don't.
4 Q. Do you know if Chris Foraker passed his fitness
5 for duty exam?
6 A. I am thinking I remember that he did, but I am
7 not 100 percent sure. I think he did.
8 Q. Do you know that Chris Foraker was sent for a
9 second opinion on his fitness for duty exam?
10 A. I do now.
11 Q. Did you know it then?
12 A. I am not sure. Another thing was the time
13 period.
14 Q. So, today, the end of August, 2005, are you
15 aware of the fact that Chris Foraker was sent for
16 three fitness for duty exams?
17 A. No.
18 Q. Do you think that's normal to send an officer
19 for three fitness for duty exams?
20 A. I have no reason to -- to believe it's normal
21 or abnormal. I don't know.
22 Q. Have you ever been sent for three consecutive
23 fitness for duty exams?
24 A. No. I have never been sent for one.

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1 Q. Do you know why Sergeant Foraker was sent for
2 three fitness for duty exams?
3 A. No, I do not.
4 Q. Now, did there come a time when you put Kurt
5 Price and Wayne Warren on light duty?
6 A. Lieutenant colonel did.
7 Q. So, you are telling me that you did not make
8 that decision?
9 A. That's correct.
10 Q. Were you involved in that process at all?
11 A. No.
12 Q. As colonel, did Lieutenant Colonel MacLeish run
13 that decision by you?
14 A. He may have run it by me after the fact.
15 Q. So, you are telling me --
16 A. I am sure he was working hand-in-hand with
17 human resources and Captain Yeomans.
18 Q. So you are indicating to me that he only ran it
19 by you after the fact?
20 A. Yes. And that -- and I am not sure of that
21 because it depends on when that was.
22 Q. So, he could have run it by you before he did
23 it; you just don't remember?
24 A. No. I am saying when this occurred, depending

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1 on what date that was, because, like I said, I wasn't
2 there a lot --
3 Q. I will represent to you that Kurt Price and
4 Wayne Warren were put on light duty on June 18th of
5 2004.
6 A. Okay.
7 Q. So, focus around that time --
8 A. Thank you.
9 Q. -- time frame.
10 A. Yes, sir.
11 Q. Do you know if Lieutenant Colonel MacLeish ran
12 that decision by you before --
13 A. No. He told me that -- that that had occurred.
14 Q. So he told you after the fact?
15 A. Yeah.
16 Q. He did not tell you before the fact?
17 A. No.
18 Q. So, when you found out about it after the fact,
19 did you say, That's the wrong decision?
20 A. No.
21 Q. Did you say, You made a mistake, Tom MacLeish?
22 A. I sure didn't.
23 Q. Did you think he had made the right decision?
24 A. I had no reason to believe anything different

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1 from that.

2 Q. As the colonel of the State Police, you had the

3 authority to overrule that decision if you wanted to;

4 isn't that right?

5 A. Sure.

6 Q. Because you are the colonel and you can -- you

7 are the ultimate, I guess, decision maker in the State

8 Police; would that be fair to say?

9 MR. ELLIS: Object to the form of that

10 question.

11 THE WITNESS: The ultimate decision maker?

12 I have never actually heard it said that way before,

13 but --

14 BY MR. NEUBERGER:

15 Q. How would you phrase it?

16 A. I am the superintendent of the State Police.

17 Q. And inherent in that position, you are the --

18 you have the final say on --

19 A. A lot of things.

20 Q. And would whether someone goes on light duty be

21 one of those things?

22 A. Not necessarily because the way it's set up,

23 the lieutenant colonel, that comes under the

24 lieutenant colonel's purview, just, like I said, all

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1 discipline, all personnel issues, and all training

2 issues come under the lieutenant colonel.

3 Q. Are you aware that in the spring of 2005, Kurt

4 Price and Wayne Warren were ordered to separate from

5 the division?

6 A. No, I am not.

7 Q. Are you telling me that you knew nothing about

8 that?

9 A. The spring -- when in the spring? Do you know?

10 Q. May 12th of 2005.

11 A. I was retired.

12 Q. Did you hear about that before you retired?

13 A. No.

14 Q. I think you said you retired on May 5th of

15 2005?

16 A. Mm-hmm.

17 Q. So, was that decision run by you prior to your

18 retirement?

19 A. No.

20 Q. Did then Lieutenant Colonel MacLeish talk to

21 you about it prior to your retirement?

22 A. No.

23 Q. I believe you were back on full duty in the end

24 of March?

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1 A. March 24th.

2 Q. Of 2005?

3 A. Mm-hmm.

4 Q. And then you were on full duty until May 5th of

5 2005?

6 A. Yes.

7 Q. So, is it your testimony that during that time

8 period, Lieutenant Colonel MacLeish never told you

9 about his order to Kurt Price and Wayne Warren to

10 separate from the division?

11 A. I don't remember him telling me that, and

12 during those six weeks or so that I was back, I was

13 out of state two different weeks.

14 Q. So, you are telling me that you had no

15 involvement in that process?

16 A. That's correct.

17 Q. Now, Colonel, did you ever become aware of

18 Sergeant Foraker being thrown out of the commanders

19 and section chief meetings by then Lieutenant Colonel

20 MacLeish?

21 A. Could you restate the first part of that?

22 Q. Did you ever find out that Sergeant Foraker was

23 thrown out of a commanders and section chiefs meeting

24 by then Lieutenant Colonel MacLeish?

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1 A. I saw the lieutenant colonel -- I was at that

2 meeting. I saw the lieutenant colonel go over to

3 Sergeant Foraker and talk to Sergeant Foraker, and

4 then I saw Sergeant Foraker get up and leave the room.

5 Q. Were you --

6 A. And subsequently -- I wasn't a part of it until

7 after the fact when the lieutenant colonel came and

8 told me.

9 Q. Was Lieutenant Colonel MacLeish acting at your

10 direction?

11 A. No.

12 Q. Did you tell Lieutenant Colonel MacLeish to get

13 Sergeant Foraker out of the room?

14 A. No, I did not.

15 Q. What did Lieutenant Colonel MacLeish say to you

16 when he came back after Sergeant Foraker left the

17 room?

18 A. Well, I think I probably asked him, Why is

19 Sergeant Foraker here?, because we didn't have

20 sergeants come to the commanders meeting, and he said

21 he took care of it or whatever. But I hadn't had any

22 conversation prior to the lieutenant colonel going

23 over and talking to him.

24 Q. Are you aware that Sergeant Foraker's job

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1 responsibilities at the FTU have been decreased since
2 he was reinstated there in December of 2003?

3 MR. ELLIS: Objection to the form of the
4 question.

5 THE WITNESS: No, I am not aware, and I
6 don't believe that they have.

7 BY MR. NEUBERGER:

8 Q. Is that something which you think you would
9 normally be aware of if something like that were to
10 occur?

11 A. Yes.

12 Q. And you are indicating that you did not order
13 that and that that did not happen, period?

14 A. I am saying that I was not aware of the fact
15 that they have been diminished. No, I did not order
16 it. And if they were diminished, I am not aware of
17 it.

18 Q. So, you are indicating that it's possible that
19 it could have happened but you just have no personal
20 knowledge one way or the other?

21 A. I have no knowledge one way or the other. I
22 don't believe that it did, but I have no knowledge of
23 it one way or the other.

24 Q. Are you aware that beginning in December of

1 speaking about?

2 BY MR. NEUBERGER:

3 Q. Any commanders that you are aware of, Colonel?

4 A. No. No.

5 Q. Are you aware that when Sergeant Ashley was the
6 NCOIC of the FTU, that he was given greater autonomy
7 when making financial decisions than Sergeant Foraker
8 has had since he was reinstated beginning in December
9 of 2003?

10 MR. ELLIS: Objection to the form.

11 THE WITNESS: No, I am not aware of any of
12 that.

13 BY MR. NEUBERGER:

14 Q. Are you aware that Sergeant Ashley was allowed
15 to bypass the chain of command when it came to
16 particular issues, such as fixing the bullet trap?

17 MR. ELLIS: Objection to the form of that
18 question.

19 THE WITNESS: No, I am not aware of it

20 BY MR. NEUBERGER:

21 Q. Did Sergeant Ashley come and update you on his
22 efforts while he was NCOIC of the FTU to fix the
23 bullet trap?

24 A. No, sir, he did not.

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1 2003, Sergeant Foraker was deprived of the required
2 fifth full time firearms instructor he needed to
3 safely operate the FTU?

4 MR. ELLIS: Object to the form of that
5 question.

6 THE WITNESS: No, I am not.

7 BY MR. NEUBERGER:

8 Q. Since Sergeant Foraker's return to the FTU in
9 December of 2003, did you ever order any of his
10 commanders to sit on him and hassle him in the
11 fulfillment of his duties?

12 A. I sure didn't.

13 Q. Did you ever become aware that that was
14 occurring?

15 A. His commanders were sitting on him?

16 Q. I will rephrase the question. I think you are
17 indicating that you don't understand it or that it's a
18 little unclear.

19 A. I have never heard anybody sitting on somebody.

20 Q. Did you ever become aware that his commanders
21 were hassling him and nitpicking him in the
22 performance of his duties?

23 MR. ELLIS: What commanders?

24 THE WITNESS: What commanders are you

1 Q. He didn't come to headquarters and speak to you
2 once a week?

3 A. No, he did not.

4 Q. Is Sergeant Ashley a friend of yours?

5 A. Not really. He happened to work at the same
6 troop as I.

7 Q. What troop was that?

8 A. Troop 5.

9 Q. And that's Bridgeville?

10 A. That's correct.

11 Q. Colonel, would it be fair to say that the State
12 Police has been in the paper a lot over the last
13 several years?

14 MR. ELLIS: Objection to the form of that
15 question.

16 THE WITNESS: I guess so.

17 BY MR. NEUBERGER:

18 Q. Would it be fair to say that they have been --
19 that the State Police has been in the paper a lot in a
20 negative way over the past several years?

21 MR. ELLIS: Objection to the form of that
22 question.

23 THE WITNESS: I think so.

24 BY MR. NEUBERGER:

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1 Q. For example, there was media coverage of the
 2 jury verdict in June of 2003, arising from Sergeant
 3 Foraker's lawsuit against you; isn't that right?
 4 A. Yes, there was.
 5 Q. And there was media coverage arising out of a
 6 separate trial in January of 2004; isn't that right?
 7 A. Yes, there was.
 8 Q. And then you have been sued individually and
 9 personally by a lot of either troopers or other
 10 Delaware State Police employees and those suits have
 11 received media coverage; isn't that right?
 12 MR. ELLIS: Objection to the form.
 13 THE WITNESS: I don't know if you would
 14 say "a lot," but there has been some.
 15 BY MR. NEUBERGER:
 16 Q. More than two?
 17 A. More than two is a lot?
 18 Q. How about more than three?
 19 A. More than three is not a lot either.
 20 Q. How about more than four?
 21 A. Okay. There has been more than four.
 22 Q. How about more than five?
 23 A. Are we going to stop any time soon? It's kind
 24 of childish.

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1 Q. It depends what your answer is to this more
 2 than five question?
 3 A. What was the timetable again?
 4 Q. April of 2002 to the present?
 5 A. Yes, more than five.
 6 Q. And there has been a lot of media coverage of
 7 various Internal Affairs investigations and
 8 investigations by outside investigatory agencies into
 9 either you and/or Lieutenant Colonel MacLeish during
 10 that same time period; isn't that correct?
 11 MR. ELLIS: Objection to the form.
 12 THE WITNESS: A lot of internal
 13 investigations.
 14 BY MR. NEUBERGER:
 15 Q. Media coverage of Internal Affairs
 16 investigations?
 17 A. I am trying to think -- two.
 18 Q. So, there has been media coverage of those
 19 investigations?
 20 A. Yes.
 21 Q. And would it be fair to say that you don't like
 22 this negative publicity?
 23 A. As I answered a few times before, yeah, nobody
 24 would like negative publicity.

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1 Q. Do you have a preference as to whether Delaware
 2 State troopers raise issues internally or externally
 3 by filing lawsuits?
 4 MR. ELLIS: Object to the form of that
 5 question.
 6 THE WITNESS: Sure, I have a preference.
 7 BY MR. NEUBERGER:
 8 Q. What is your preference?
 9 A. I would rather them try to take care of it
 10 in-house first.
 11 Q. Would it be fair to say that you don't like it
 12 when troopers sue the agency?
 13 A. That would be like -- yeah, I don't like it
 14 when people sue the agency. I don't like that.
 15 MR. NEUBERGER: I think this is a good
 16 spot for a break.
 17 (Recess taken.)
 18 BY MR. NEUBERGER:
 19 Q. Colonel, we talked a little bit before about
 20 the first media tour you gave of the FTU.
 21 Do you recall testifying about that at
 22 some length?
 23 A. That I gave?
 24 Q. The first media tour that you attended?

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1 A. Yes, we did talk about that.
 2 Q. And I'd like to focus and ask you some
 3 questions about some things that happened immediately
 4 before the tour and some things that happened
 5 immediately after the tour, just so you have some
 6 focus in your own mind of where your questions are
 7 going to be going.
 8 A. Yes, sir.
 9 Q. Now, the day of the first tour, you went to
 10 headquarters before you went to the FTU on Clark Farm
 11 Road?
 12 A. I am sure I did, yes.
 13 Q. And while you were at headquarters, before you
 14 left for the tour, you went down to the traffic
 15 section, didn't you?
 16 A. I don't know. Maybe I did.
 17 Q. Are you indicating that you just are not sure;
 18 you just don't remember?
 19 A. I don't remember.
 20 Q. Well, I am going to try to jog your memory a
 21 little bit.
 22 A. Okay.
 23 Q. Do you recall if you went down into the traffic
 24 section and talked to Captain Glen Dixon?

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1 A. Do you know the date of this?

2 Q. This would have been about April 6th of 2004.

3 He may have been a lieutenant. I am not exactly sure

4 when he was promoted.

5 A. He was a captain in April of '04, but he

6 wouldn't have been in the traffic section unless he

7 just accidentally stopped up there because September of

8 '03, he went to be a troop commander at Troop 5 in

9 Bridgeville.

10 Q. Is that your home troop?

11 A. Yes, it is.

12 Q. So, on April 6th of 2004, do you recall whether

13 you went down to the traffic section and talked with

14 Captain Glen Dixon?

15 A. No, I don't, because I don't think he would be

16 there.

17 Q. Do you recall if on April 6th of 2004, before

18 you went on the media tour, did you go down to the

19 traffic section and talk with Captain Barbara Conley?

20 A. I may have, but I don't remember it.

21 Q. I will keep trying to jog your memory.

22 A. All right.

23 Q. In conversations with Captain Conley and

24 Captain Dixon in the traffic section, did you say that

1 Q. So you deny that statement?

2 A. That's correct.

3 Q. Do you recall that conversation?

4 A. No, I do not.

5 Q. But you deny that statement anyway?

6 A. I don't recall the conversation, and I deny

7 what you are saying.

8 Q. So, you are denying that you ever said that?

9 A. That's right.

10 Q. Even though you are testifying you don't

11 remember having that conversation?

12 A. That's right. I never had that conversation.

13 Q. So now you are -- it's not that you don't

14 remember it, it's that you deny it ever occurred?

15 A. I never had that conversation.

16 Q. Did you ever have a similar conversation?

17 A. Not that I know of.

18 Q. During that same conversation with Captain

19 Conley and Captain Dixon in the traffic section, did

20 you say, quote, I am going to stick it up their ass,

21 closed quote?

22 A. No, I did not, and it seems strange to me that

23 Captain Conley and Captain Dixon would be in the

24 traffic section because you only have one captain in

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1 you were getting ready to go to the FTU to, quote,

2 stick it to Chris Foraker and Greg Warren?

3 A. No, I did not.

4 Q. So you deny that?

5 A. That's exactly right, I deny that.

6 Q. I thought you said you didn't remember whether

7 you had said that or not?

8 A. No. I didn't remember whether I went to the

9 traffic section or not. I know very well I didn't say

10 that.

11 Q. And how do you know that if you are not sure

12 you even had the conversation in the first place?

13 A. Because I never have said that.

14 Q. So you deny that you have ever said that you

15 were going -- you were getting ready to go to the FTU

16 to, quote, stick it to Chris Foraker and Greg Warren?

17 A. That's correct, I deny that.

18 Q. And if Captain Conley and Captain Dixon testify

19 otherwise, would they be lying?

20 A. That's correct.

21 Q. During those same conversations with Captain

22 Conley and Captain Dixon, did you say, quote, I am

23 going to show them what I am all about, closed quote?

24 A. No, I did not.

1 the traffic section, and in April of '04, when you

2 said this occurred, he was no longer in the traffic

3 section.

4 Q. Okay.

5 A. So now you continue to tell me things that I

6 have supposedly said when two captains have never been

7 in the traffic section at the same time.

8 Q. I thought you said a few minutes ago that maybe

9 Captain Dixon could have been just stopping by to pick

10 something up?

11 A. Well, he may have.

12 Q. For example, you go down to Captain Dixon's

13 office in Troop 5 all the time just to chat, don't

14 you?

15 A. No.

16 Q. Do you deny that you went down to Captain

17 Dixon's office all the time to chat while you were on

18 administrative leave?

19 A. Yes, I do deny that.

20 Q. Do you deny you spent a lot of your time down

21 at Troop 5 talking in the presence of Captain Dixon

22 and Lieutenant Rust and Lieutenant, I think, Brown?

23 A. All the time? I just stopped there all the

24 time; is that what you are saying?

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1 Q. Sure.

2 A. I was in there three or four times during the
3 time that I was on administrative leave, but in five
4 months, I don't think three or four times is all the
5 time.

6 Q. Okay.

7 A. I was in Florida a lot of that time.

8 Q. At your vacation home down there?

9 A. Yes, sir.

10 Q. So, I think you are telling me that -- and I
11 apologize I am still a little unclear on this -- are
12 you telling me that this conversation with Captain
13 Dixon and Captain Conley never occurred or that you
14 don't remember it occurring?

15 A. I am telling you that with regards to what you
16 are saying was in the conversation never occurred.

17 Q. But do you remember --

18 A. I don't know if a conversation occurred or not.
19 I may have gone down there and he may have stopped in
20 and I may have talked to him, but I didn't go down
21 there before I went up to the firing range for the
22 first meeting because I knew Gloria Homer was going to
23 be up there and tell all these things that you are
24 saying that I have said.

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8/30/2005 Chaffinch, L. Aaron

1 Q. So, you are denying that you said these things?

2 A. That's correct.

3 Q. But you are saying that you very well may have
4 gone down there to talk to someone?

5 A. I may have.

6 Q. Now, I'd like to focus your attention on after
7 you returned from the tour of the firing range that
8 same day.

9 A. Okay.

10 Q. When you returned to the headquarters, did you
11 go back down to the traffic section?

12 A. I don't remember that I did.

13 Q. Do you think it is a -- is it possible or you
14 just don't remember one way or the other?

15 A. I don't think it's even possible.

16 Q. So it's impossible that you went down to the
17 traffic section after you returned to headquarters
18 that day?

19 A. I never went down after I returned. I am not
20 even sure if I went back to headquarters.

21 Q. Do you recall having a conversation with
22 Captain Conley and/or Captain Dixon after you returned
23 to headquarters?

24 A. No, I do not.

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1 Q. Do you recall being very happy, animated, and
2 excited about what you had just done at the FTU during
3 the media tour?

4 A. No, I do not.

5 Q. Do you recall saying that you had just done a
6 great thing?

7 A. No, I do not.

8 Q. Do you recall bragging about what you had just
9 done?

10 A. No, I do not.

11 Q. Do you recall being very proud of yourself for
12 what you had just done?

13 A. No, I do not.

14 Q. Do you recall expressing that verbal --

15 A. No, I do not.

16 Q. Do you recall saying that you really, quote,
17 put it on them, close quote?

18 A. No, I do not.

19 Q. Do you recall saying that you really, quote,
20 took it to him, close quote?

21 A. No, I do not.

22 Q. Do you deny saying those things?

23 A. Yes.

24 Q. Do you think you had a conversation with

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1 Captain Conley or Captain Dixon about these things
2 that day and just that you didn't say these things or
3 just that the conversation never occurred?

4 A. The conversation never occurred.

5 Q. Are you telling me it's out of the ordinary for
6 you to have talked to Captain Dixon or Captain Conley
7 during that time frame?

8 A. They both wouldn't have been down there during
9 that time frame.

10 Q. How about one of them?

11 A. One of them may have been.

12 Q. For example, Captain Conley, I believe, is the
13 director of traffic and was the director of traffic
14 during that time frame?

15 A. Yes, she was, and yes, she is.

16 Q. So she could have been there?

17 A. She could have been.

18 Q. And are you saying that you normally wouldn't
19 have talked to her?

20 A. I talked to her on occasion, but I can't
21 imagine if I talked to her before I went, then I just
22 run right down there as soon as I got back down from
23 the range to talk to her some more. I mean, usually
24 when I went down there, I had something on my mind to

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1 talk to her about with regards to traffic.
2 Q. Still focusing on the time period after you
3 returned from the media tour of the FTU or -- are we
4 on the same page with that part, at least?
5 A. Yes, sir.
6 Q. Did you go and talk to Major David Baylor, I am
7 sorry, now retired David Baylor?
8 A. I saw David Baylor upstairs, yes. He was a
9 major and he worked up in the executive staff.
10 Q. Did you go and tell Major Baylor that, quote, I
11 got my shots in, people who live in glass houses
12 shouldn't throw stones; the mess at the range is all
13 Foraker's fault; I got him back, close quote?
14 A. No. I did not. I said that I said, "People in
15 glass houses shouldn't throw stones," just exactly
16 what I testified to earlier. The other parts, I did
17 not say.
18 Q. I believe you testified earlier that you made
19 statements to --
20 A. Tom Eldred.
21 Q. Of the Delaware State News?
22 A. That's right.
23 Q. Are you telling me that you made those same
24 exact statements to now retired Major David Baylor?

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8/30/2005 Chaffinch, L. Aaron

1 A. I told David Baylor what I had told Tom Eldred.
2 Q. And just so we are clear, what exactly did you
3 tell Major David Baylor?
4 A. "People in glass houses shouldn't throw
5 stones."
6 Q. And is that all that you said to him?
7 A. And he asked me who I was talking about, just
8 like Tom Eldred did, and I -- I said I was talking
9 about Greg Warren.
10 Q. So you denied telling him that the mess at the
11 range is all Foraker's fault?
12 A. No, I never said that.
13 Q. You deny telling Major David Baylor that,
14 quote, I got him back?
15 A. I did not say that.
16 Q. So, you deny saying those things to Major David
17 Baylor that day?
18 A. That's correct.
19 Q. But you do admit you had a conversation with
20 him?
21 A. That's correct.
22 Q. And you admit you said to him that people who
23 live in glass houses shouldn't throw stones?
24 A. That's correct.

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1 Q. And you deny saying to him that, quote, I got
2 my shots in, close quote?
3 A. I deny that, yes.
4 Q. So, if his memory is different than your
5 memory, you think he would be lying?
6 A. He just doesn't remember the conversation like
7 it happened.
8 Q. But you remembered that particular
9 conversation?
10 A. I sure do.
11 Q. You don't remember the conversation with
12 Captain Conley or Captain Dixon?
13 A. I sure don't.
14 Q. But you remember the conversation with Major
15 Baylor?
16 A. That's correct.
17 Q. And Major Baylor was a member of your executive
18 staff, was he not?
19 A. Yes, he was.
20 Q. For example, he was the second person promoted
21 after you became colonel; isn't that right?
22 A. That's correct.
23 Q. And you promoted Tom Marcin to lieutenant
24 colonel and then you promoted Dave Baylor to major?

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1 A. That's correct.
2 Q. Was the Baylor conversation that was -- did you
3 say it was on the second floor of the headquarters
4 building?
5 A. Mm-hmm.
6 Q. After you returned from the firing range tour
7 that day, did you talk to Lieutenant Colonel MacLeish
8 about the tour?
9 A. Probably did. I don't know if I did that same
10 day or not.
11 Q. Do you recall what you said to him?
12 A. No. I probably explained to him who all was
13 there and some of the things that I remembered that,
14 you know, Gloria Homer said and stuff like that.
15 Q. Do you think you talked to -- would Randall
16 Hughes have been a major at that point, or would he
17 still have been a captain? This would be April of
18 2004.
19 A. He would have been a captain.
20 Q. Who were the other members of the executive
21 staff at that point; do you recall? It was Major
22 Baylor, Major Seaford, Major Papili?
23 A. This is April of '04?
24 Q. Yes, sir.

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1 A. No. Major Hughes -- he would be a major.
 2 Q. Do you think you talked to Major Hughes after
 3 you returned from the media tour of the FTU?
 4 A. I don't know if I did or not. Very seldom is
 5 everybody up there in headquarters in the staff
 6 because, you know, they are all over everywhere doing
 7 their duties with whatever they have that day. So, it
 8 would have been -- if all of them were there, I would
 9 hardly believe it, you know what I mean? I don't
 10 remember -- I remember talking to Dave Baylor. That's
 11 the only one I remember talking to that day.
 12 Q. Okay.
 13 A. If Tom MacLeish would have been there, he would
 14 have gone with me, so he wasn't there, so I don't know
 15 when he returned. So I am not sure if I talked with
 16 him that day or whether I talked to him the next day.
 17 Q. Do you think you talked to him the next day?
 18 Is it possible you talked to him one of those days?
 19 A. Yes.
 20 Q. Do you recall what you said to him?
 21 A. No. I just probably explained to him what
 22 occurred at the range and, you know, how it all went
 23 down, who all was there, and that kind of stuff.
 24 MR. ELLIS: Are you guessing?

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1 BY MR. NEUBERGER:
 2 Q. Colonel, it's very important, I don't want you
 3 to guess. I have said that repeatedly.
 4 A. I don't remember when I talked to Tom MacLeish.
 5 Q. That's helpful and I appreciate that answer.
 6 Have you ever talked to Representative
 7 Peter Schwartzkoff about Chris Foraker?
 8 A. I don't recall.
 9 Q. Did you ever talk to him about Master Corporals
 10 Wayne Warren and Kurt Price since December of '03?
 11 A. I don't recall.
 12 Q. Do you think it's possible that you did?
 13 A. I don't think so. I don't have any knowledge
 14 of it.
 15 Q. Did you ever talk to Senator Thurman Adams
 16 about Sergeant Chris Foraker?
 17 A. No, I have not.
 18 Q. Have you ever talked to Senator Thurman Adams
 19 about Master Corporals Price or Warren?
 20 A. No, I have not.
 21 Q. So you deny ever speaking to those -- to that
 22 gentleman about my clients?
 23 A. That's correct.
 24 Q. And who is Thurman Adams?

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1 A. He is a senator in the state of Delaware.
 2 Q. And is your friend?
 3 A. Yes.
 4 Q. Is he your close friend?
 5 A. Yes.
 6 Q. Would it be fair to say he is your political
 7 protector or your political patron?
 8 MR. ELLIS: Object to the form.
 9 THE WITNESS: He is not my political
 10 protector.
 11 BY MR. NEUBERGER:
 12 Q. Is he your political patron?
 13 MR. ELLIS: Objection to the form.
 14 THE WITNESS: I am his constituent.
 15 BY MR. NEUBERGER:
 16 Q. Has he ever told you that he would take care of
 17 you no matter what?
 18 A. No.
 19 Q. That he will protect you no matter what?
 20 A. No.
 21 Q. Do you know if he was the reason that the state
 22 of Delaware decided to pay the money to settle Chris
 23 Foraker's first suit even though the state of Delaware
 24 said that state law could not pay that?

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1 MR. ELLIS: Objection to the form.
 2 THE WITNESS: I don't have a clue what you
 3 are talking about.
 4 BY MR. NEUBERGER:
 5 Q. Are you saying you don't understand the
 6 question?
 7 A. Yeah. I understand the question.
 8 Q. And you are saying --
 9 A. That's the first time I have ever heard that in
 10 my life.
 11 Q. So you are saying that you don't know?
 12 A. That's right. I don't know. There was a
 13 settlement in the Foraker case. And once there was a
 14 settlement in the Foraker case, the punitive damages
 15 were no longer a part of the settlement. So, I mean,
 16 that doesn't go together, I don't believe.
 17 Q. You are answering no to the question? You said
 18 you just don't know?
 19 A. Okay.
 20 Q. Is that correct?
 21 A. Yes.
 22 Q. The reference to the jury verdict in Sergeant
 23 Foraker's first suit, did Senator Adams ever say to
 24 you that you would not have to pay the money out of

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1 your own pocket?
2 A. I don't believe so.
3 Q. You are not sure?
4 A. I don't remember him saying that.
5 Q. Is it possible that he could have said it and
6 you just don't remember?
7 A. I wouldn't think so, but I guess there is a
8 possibility it could have happened.
9 Q. Do you brag about your association with Senator
10 Thurman Adams?
11 A. He is just a close friend of mine. I mean, why
12 would I brag about it? I got a lot of close friends.
13 Q. So, are you saying that you do not brag about
14 your association with Senator Thurman Adams?
15 A. I wouldn't call it bragging. I am proud that I
16 know him and I am proud that we are friends. He has
17 been good to me and I have been good to him and his
18 family. That's as far as it goes.
19 Q. Throughout your career, have you bragged in
20 front of other officers that it doesn't matter what
21 you do because Senator Adams will protect you?
22 A. No.
23 Q. Do you refer to Thurman Adams as Uncle Thurman?
24 A. No.

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1 Q. Do you refer to Senator Adams as the
2 Thurminator?
3 A. No.
4 Q. Do you refer to Senator Adams as big daddy?
5 A. No. That's his grandson.
6 Q. I am sorry?
7 A. His grandson's nickname is big daddy, and his
8 grandson and my son grew up together, so some of your
9 information is not together.
10 Q. Now, do you remember that there came a time
11 when Major Dave Baylor retired?
12 A. Yes, I remember that.
13 Q. Was that towards the end of August of 2004?
14 A. I believe you are correct.
15 Q. Did he have a retirement party around that
16 time?
17 A. Yes, he did.
18 Q. Now, prior to the retirement party, did you
19 tell Cabinet Secretary David Mitchell that the
20 Thurminator was going to blast Mitchell because
21 Mitchell was trying to stop you from doing your thing,
22 or something to that effect?
23 A. Did I tell who?
24 Q. Cabinet Secretary David Mitchell?

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1 A. Did I tell him?
2 Q. That the Thurminator was going to blast
3 Mitchell because Mitchell was trying to stop you from
4 being you, or something to that effect?
5 A. I don't understand that question. You are
6 asking me about something I told Dave Mitchell about
7 blasting Dave Mitchell.
8 Q. Did you ever tell Secretary Mitchell that the
9 Thurminator was going to protect you?
10 A. No, I did not.
11 Q. Have you ever told any of your friends or
12 coworkers that the Thurminator was going to blast
13 Mitchell because Mitchell was coming down hard on you?
14 A. You are going to have to give me more than
15 that. I don't know -- I don't know what you are
16 talking about.
17 Q. So, you are denying that ever occurred?
18 A. Yes.
19 Q. Have you ever told any friends or coworkers
20 that the Thurminator was going to tell Mitchell to
21 back the F off because Mitchell was pressuring you?
22 A. No, I have not.
23 Q. So you deny that?
24 A. That's right.

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1 Q. Now, Colonel, to change gears again, do you
2 know of a restaurant called Sambos?
3 A. Yes.
4 Q. And is that located in Leipsic Delaware?
5 A. Leipsic.
6 Q. Leipsic?
7 A. Mm-hmm.
8 Q. Is that a popular place?
9 A. I don't know. I have been there about maybe
10 three times in my life.
11 Q. Is that -- I am sorry. Go ahead.
12 A. It has good seafood.
13 Q. Do you know if Delaware state troopers eat
14 there very often?
15 MR. ELLIS: Object to the form of the
16 question.
17 THE WITNESS: No, I don't.
18 BY MR. NEUBERGER:
19 Q. Do you know if the DSP executive staff, while
20 you were colonel, would take visiting out of state
21 police officers there to eat?
22 A. We did on one occasion, I remember.
23 Q. And are you telling me that that only happened
24 on one occasion?

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1 A. While I was colonel?
2 Q. Yeah.
3 A. It may have happened more than once, but I
4 remember being there once with out of state people.
5 If, in fact, they went another time, the human
6 resource section took them there, I didn't. I only
7 remember going one time. It was when we had officers
8 here from other states involved in our promotional
9 process with the interviews.
10 Q. That's like the oral boards?
11 A. Yes. I remember going one time, and I am not
12 saying there wasn't more than one time, but I only
13 went once.
14 MR. NEUBERGER: I'd like to take a short
15 break and I think I am almost done.
16 (Recess taken.)
17 MR. NEUBERGER: Colonel, I have no further
18 questions, but I would like to note for the record
19 that this deposition is subject to recall based on the
20 punitive damages issue that we talked about with
21 Mr. Ellis on the record this morning. Also, there is
22 some outstanding discovery document requests as well.
23 But subject to that, I don't have any further
24 questions.

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1 MR. ELLIS: I don't have any questions.
2 (The deposition was concluded at 2:40
3 p.m.)
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6	INDEX TO EXHIBITS	
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8		PAGE
9	Chaffinch Exhibit No. 1 entitled "Verdict Form" was	
10	marked for identification.....	21
11	Chaffinch Exhibit No. 2 which is a memorandum to Lt.	
12	Ralph Davis from Sgt. Alfred W. Parton, Jr. was marked	
13	for identification.....	102
14	Chaffinch Exhibit No. 3 bates stamped FTU2849 through	
15	FTU2940 was marked for identification.....	128
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1
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3
4 **REPLACE THIS PAGE**
5 **WITH THE ERRATA SHEET**
6 **AFTER IT HAS BEEN**
7 **COMPLETED AND SIGNED**
8 **BY THE DEPONENT.**
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State of Delaware)

)

New Castle County)

CERTIFICATE OF REPORTER

I, Renee A. Meyers, Registered Professional Reporter and Notary Public, do hereby certify that there came before me on the 30th day of August, 2005, the deponent herein, L. AARON CHAFFINCH, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed into typewriting under my direction.

I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

Renee A. Meyers

Certification No. 106-RPR

(Expires January 31, 2005)

DATED: September 2, 2005



In the Matter Of:

Price, et al.

V.

Chaffinch, et al.

C.A. # 04-1207

Transcript of:

Thomas F. MacLeish

July 19, 2007

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CORPORAL B. KURT PRICE,)
CORPORAL WAYNE WARREN,)
and SERGEANT CHRISTOPHER)
D. FORAKER,)
)
Plaintiffs,)

v.) C.A. No. 04-1207
)

COLONEL L. AARON CHAFFINCH,)
individually and in his)
official capacity as)
Superintendent of the)
Delaware State Police;)
LIEUTENANT COLONEL THOMAS)
F. MacLEISH, individually)
and in his official)
capacity as Deputy)
Superintendent of the)
Delaware State Police;)
DAVID B. MITCHELL, in his)
official capacity as the)
Secretary of the Department)
of Safety and Homeland)
Security of the State of)
Delaware; and DIVISION OF)
STATE POLICE, DEPARTMENT OF)
SAFETY AND HOMELAND)
SECURITY, STATE OF)
DELAWARE,)
)
Defendants.)

Deposition of COLONEL THOMAS F. MacLEISH
taken pursuant to notice at the law offices of The
Neuberger Firm, P.A., 2 East 7th Street, Suite 302,
Wilmington, Delaware, beginning at 9:30 a.m., on Tuesday,
July 19, 2005, before Kimberly A. Hurley, Registered
Merit Reporter and Notary Public.

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

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1 APPEARANCES:
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14 for the Defendants
15
16 ALSO PRESENT:
17 SERGEANT CHRISTOPHER D. FORAKER
18 CORPORAL B. KURT PRICE
19 ALISON LASSETER
20
21
22
23
24

1 Instead of shaking your head, just say no.
2 Do you understand that?
3 **A. Yes, I do.**
4 Q. After we're done here today, you will have an
5 opportunity to review the transcript of the deposition to
6 correct any typographical errors that may be made. Do
7 you understand that?
8 **A. Yes, I do.**
9 Q. If I ask you a question and you don't understand
10 the question, just ask me to rephrase that question. I
11 will be more than happy to do that. Do you understand?
12 **A. Yes.**
13 Q. Do you understand that I don't want you to guess
14 at any answers?
15 **A. Yes.**
16 Q. Are you taking any medications or is there
17 anything else that would prevent you from testifying
18 truthfully or remembering accurately today?
19 **A. No, I'm not.**
20 Q. If you need any breaks, if you need to go to the
21 john, need to stretch your back out, need to take five
22 minutes, let me know and I'll be happy to take a
23 five-minute break.
24 **A. Yes.**

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Page 5

1 COLONEL THOMAS F. MacLEISH,
2 the witness herein, having first been
3 duly sworn on oath, was examined and
4 testified as follows:
5 BY MR. NEUBERGER:
6 Q. Colonel, my name is Steve Neuberger, and I'm an
7 attorney representing Master Corporal Price and Master
8 Corporal Wayne Warren. Are you aware of that?
9 **A. Yes.**
10 Q. Have you ever testified in court before?
11 **A. Yes, I have.**
12 Q. Have you ever had your deposition taken before?
13 **A. Yes, I have.**
14 Q. I'm going to ask you some questions, and the
15 court reporter here is going to type up your answers to
16 those questions. Okay?
17 **A. Yes.**
18 Q. We have to take turns talking because if we talk
19 at the same time, although the court reporter is very,
20 very good, she can't get everything down. So we have to
21 take turns.
22 **A. I understand.**
23 Q. You have to verbalize your answers. For
24 example, instead of nodding your head, just say yes.

1 Q. You have taken an oath to tell the truth today?
2 **A. Yes, I have.**
3 Q. Do you understand the significance of that oath?
4 **A. Yes, I do.**
5 Q. You understand that I'm going to be asking you
6 questions today concerning events arising out of two
7 separate lawsuits?
8 **A. Yes.**
9 Q. Foraker v. Chaffinch, MacLeish, and the DSP?
10 **A. Yes.**
11 Q. And then Price, Warren, and Foraker versus
12 Chaffinch, MacLeish, and the DSP?
13 **A. Yes.**
14 Q. Your current position is Colonel of the Delaware
15 State Police; isn't that right?
16 **A. Yes, it is.**
17 Q. Is that the highest-ranking position in the
18 Delaware State Police?
19 **A. Yes, it is.**
20 Q. When were you promoted to colonel?
21 **A. May 6 of 2005.**
22 Q. What was your position prior to that?
23 **A. I was lieutenant colonel.**
24 Q. What are the job responsibilities of the

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2 (Pages 2 to 5)

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1 lieutenant colonel of the Delaware State Police?
2 **A. Typically, they are -- you have all operations**
3 **report to you. You have HR and the academy that fall**
4 **under you, directly fall under you, and then all the**
5 **majors report to you. Take care of all operations,**
6 **day-to-day operations of the division.**
7 Q. Day-to-day operations of the Delaware State
8 Police are the responsibility of the lieutenant colonel,
9 also known as the deputy superintendent of the Delaware
10 State Police?
11 **A. Yes, that's correct.**
12 Q. Who promoted you to lieutenant colonel?
13 **A. Colonel Chaffinch did.**
14 Q. Before that you were a major on the executive
15 staff, weren't you?
16 **A. That's correct.**
17 Q. And in both of those capacities you worked
18 closely with Colonel Chaffinch on a day-to-day basis?
19 **A. Closer as lieutenant colonel than as major, but,**
20 **yes, I worked with him closely.**
21 Q. Was it a great honor to be promoted to
22 lieutenant colonel?
23 **A. Yes, it was.**
24 Q. Was it a privilege?

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1 **A. Yes.**
2 Q. Up until your promotion to colonel and
3 superintendent of the Delaware State Police, was that the
4 high point of your career?
5 **A. I think the high point of my career was being**
6 **appointed as a trooper.**
7 Q. Was it one of the high points of your career?
8 **A. Yes, it was.**
9 Q. You're on a first-name basis with
10 Colonel Chaffinch, aren't you?
11 **A. Most of the time it's colonel, but, yes, I call**
12 **him Aaron on occasion.**
13 Q. He's your friend, isn't he?
14 **A. Yes, he is.**
15 Q. For example, there was a profile story about
16 Colonel Chaffinch in the April 2005 edition of The News
17 Journal, wasn't there?
18 MR. ELLIS: Object to the form of the
19 question.
20 MR. NEUBERGER: You can answer.
21 **A. Sir, I don't recall if there is. If you show it**
22 **to me, I'll probably remember it.**
23 Q. Do you recall that on -- actually, I apologize.
24 Do you recall that on March 27th of 2005, that there may

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1 have been a profile story about Colonel Chaffinch in the
2 Wilmington News Journal?
3 **A. I was in Hawaii when that article appeared.**
4 Q. Do you recall ever seeing a story about
5 Colonel Chaffinch in The News Journal?
6 **A. There have been several stories about**
7 **Colonel Chaffinch in the newspaper, Mr. Neuberger.**
8 Q. Have you ever been interviewed by a News Journal
9 reporter about Colonel Chaffinch and say good things
10 about him?
11 **A. Yes.**
12 Q. Would you remember that you were the only
13 trooper quoted in any of those articles actually saying
14 anything good about him?
15 **A. As I already stated, I don't recall reading the**
16 **article. I was in Hawaii when that article was**
17 **published, and I never did find it. I never read the**
18 **article.**
19 Q. How about any article published about
20 Colonel Chaffinch?
21 MR. ELLIS: Object to the form of the
22 question if it's a question.
23 **A. If you're asking me specifically about an**
24 **article that I would say something good about him, I have**

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1 **said good things to him to reporters, but I can't recall**
2 **specific articles it appeared in.**
3 Q. Are you and Colonel Chaffinch close?
4 **A. Define "close."**
5 Q. More than friends?
6 MR. ELLIS: Object to the form of the
7 question.
8 **A. Never had any physical relationship with him.**
9 Q. I'll rephrase the question.
10 **A. Mr. Neuberger, I could count on one hand the**
11 **number of times his wife and my wife and I went out to**
12 **dinner. I don't socialize with him typically. He is my**
13 **friend. But close friends? I feel very strongly about**
14 **him. I think he's a good person, yes.**
15 Q. Have you ever publicly bragged at any
16 commanders' meeting that you and Colonel Chaffinch are,
17 quote, joined at the hip, close quote?
18 MR. ELLIS: Object to the form of the
19 question.
20 **A. I told Colonel Chaffinch that we were joined at**
21 **the hip, yes, in a professional sense.**
22 Q. Did you ever say that publicly in a meeting of
23 commanders of the Delaware State Police?
24 **A. I may have, yes.**

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